could convey, and that the purchaser was not entitled to be subrogated to mortgagee's right, but took subject to wife's dower. *Jones* v. *Bragg*, 33 Mo. 337; *Atkinson* v. *Stewart*, 46 Mo 510. Valleant, J., who dissents, says the effect is to give dower to the wife in an estate which her husband in his lifetime never owned. The husband in the case at bar, bought only an equity of redemption, and the wife's inchoate dower interest attaches to the land subject to the mortgage, and when he dies her dower becomes absolute in the estate as he left it, nothing more. If the husband had paid off the mortgage during his life, he would for the first time have had the fee, and the inchoate right of dower would for the first time have attached. As he never paid off the mortgage, there was no inchoate right, and dower never attached during coverture, and hence there was no inchoate right to become absolute. The majority opinion treats the payment of the trust deeds by the administrator as having the same effect as if paid by the husband. The dissenting opinion treats the payment by the administrator as not affecting the rights to dower interest in the land, which would seem to be the better opinion. It should be kept in mind that the administrator acts in a representative capacity, and his acts should not be construed to the detriment of one claimant in an estate as against another. *Montgomery* v. *Bruere*, 5 N. J. Law, 1001; *Hinchman* v. *Stiles*, 9 N. J. Eq 361; *Simonton* v. *Gray*, 34 Me. 50; *Boyer* v. *Boyer*, 41 Tenn. 12; *Coles* v. *Coles*, 15 Johns. 319.

EQUITY—SUIT BY TAXPAYERS—CONSTITUTIONAL LIMITATIONS OF MUNICIPAL INDEBTEDNESS—RELIEF FROM JUDGMENT.—A school district voted to build a school house not to exceed $4000 in cost, and incurred indebtedness for that purpose. This debt, it is alleged, was void, being in excess of the constitutional limitation of municipal indebtedness. Nevertheless suit was brought against the district. The district officers failed to make any defense and allowed the plaintiff to take judgment. This is a taxpayer's action to enjoin the collection of the judgment on the ground that it was fraudulently obtained by collusion between the plaintiff and the district officers. The right of the taxpayers to bring the action, the manner of estimating municipal indebtedness, and the jurisdiction of equity to enjoin the collection of a judgment in the absence of actual fraud, were questions involved in the suit. The trial court granted a permanent injunction restraining the collection of the judgment, but found that there was no collusion and apparently based its action on constructive fraud. *Held*: If public officers neglect to perform their duties, the taxpayers may intervene and remedy the mischief through the power of a court of equity. *Held*, further, as to the constitutional limitation of municipal debt, that assets to offset indebtedness consist of money and assets in the treasury and current revenues collected or in process of immediate collection. Taxes in immediate process of collection do not include taxes merely voted. Taxes are not in immediate process of collection till the tax roll shall have been placed in the hand of the proper collecting officer with authority to receive and the right of the taxpayer to pay the tax. *Held*, further, that the failure of the officers to make a proper defense was at least constructive fraud and was sufficient to warrant a court of equity in restraining the judgment. *Balch* v. *Beach* (1903), — Wis. — 95 N. W. Rep. 132. Dodge, J. dissents.

That a court of equity may enjoin the collection of a judgment on the ground of collusion or actual fraud is well established. *Nevil* v. *Clifford*, 55 Wis. 161, 12 N. W. 419; *Smith* v. *Cuyler*, 78 Ga. 654, 3 S. E. 406; *Hackett*

v. *Manlove*, 14 Cal. 85; *Myer* v. *Butt*, 44 Ga. 468; *Richardson* v. *Loree*, 36 C. C. A. 301, 94 Fed. 375. It is difficult to reconcile the finding of the trial court, that there was no collusion, with the decree of that court granting the injunction. The supreme court explains it by saying, that the circuit court must have intended that there was no "actual concert of action having a specific wrongful purpose in view," but nevertheless there was fraud in law. That the mere neglect of an officer to defend a suit which he should have defended is sufficient to establish fraud in law and justify an injunction restraining the execution of a judgment is a doctrine on which there is some question. It leads to the remarkable conclusion that the officer and agent of a municipal corporation by neglect of a duty which he owes to his principal can fasten fraud upon a third party. None of the cases cited goes to this length though some of them approach it pretty closely. See also *Chambers* v. *King Wrought Iron Bridge Mfty.*, 16 Kan. 270; *Champton* v. *Zambriski*, 101 U. S. 601: Contra—*Cicero Township* v. *Picken*, 122 Ind. 260, 23 N. E. 763.

EVIDENCE—PHYSICAL EXAMINATION—ACTION FOR PERSONAL INJURIES. —The plaintiff in the court below recovered a judgment against the defendant for injuries sustained by himself and minor son, arising from a defective bridge. The defendant appealed on the ground, *inter alia*, that the court erred in refusing an order requiring the plaintiff to submit to an examination of his person by a physician. *Held*, that the trial court did not err in refusing the order. *City of Kingfisher* v. *Altizer* (1903), — Okla., —, 74 Pac. Rep. 107.

The court, admitting that the weight of authority upholds the doctrine that trial courts have power to require the plaintiff in personal injury cases to submit to a physical examination, cited *United Pacific Ry. Co.* v. *Botsford*, 141 U. S. 250, denying this power, and, without discussing the question upon principle stated that, as the decisions of the Supreme Court of the United States were binding on the territorial court, this case was decisive of the question. The weight of authority seems, as the court admitted, to favor the exercise of the power requiring physical examinations. *City of Ottawa* v. *Gilliland* (1901), 63 Kan. 165; *South Bend* v. *Turner*, 156 Ind. 418; *Wanek* v. *Winona*, 78 Minn. 98; MICHIGAN LAW REVIEW, Vol. I., pp. 193, 277, 669.

INJUNCTION—RIGHT OF LABOR UNION TO PREVENT INTERFERENCE WITH PERSONS WHOM IT EMPLOYS TO DO PICKET DUTY.—The bill alleged that the complainants, forty-six in number, were machinists recently employed by the defendant company, but now on a strike; that the complainants, with other machinists, had formed a voluntary association to better the condition of machinists in general; that defendants and others had formed a voluntary association to deal with labor troubles; that complainants had endeavored to induce other machinists to join them, and had maintained a system of quiet picketing in the streets near defendant's shops; and averred that defendants, in combination with others, were interfering by intimidation, threats, violence, etc., with the pickets of complainants. *Held*, the bill did not state facts which would entitle the complainants to an injunction. *Atkins, et. al.* v. *W. & A. Fletcher Co.* (1903), — N. J. Eq. —, 55 Atl. Rep. 1074.

This case presents the novel situation of a labor union asking a court of equity to enjoin an association of manufacturers from interfering by violence, threats, or intimidation, with the pickets which the union had placed near the premises of the defendants. The complainants stand before the court in